



Express Mail No.: EV 603557284 US

IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE

Application Number: 10/522,320  
Filed: January 24, 2005  
Applicants: John L. Schenk and Allison C. Lindsey  
Title: Sperm Cell Process System  
TC/A.U.:  
Examiner:  
Attorney Docket: XY-Optimum-NP-US  
Customer No. 33549

AFFIDAVIT OF NICOLE A. RESSUE UNDER 37 C.F.R. §1.47

UNITED STATES OF AMERICA )  
STATE OF COLORADO )ss.  
COUNTY OF LARIMER )

RECEIVED  
OCT 21 2005  
OFFICE OF PETITIONS

I, Nicole A. Ressue, a resident of Fort Collins, in the County of Larimer, and State of Colorado, duly sworn and under oath, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

I have made the following actions in an effort to have the papers related to the above-captioned application (including specification, claims, drawings, and a Declaration having a signature blank for Allison C. Lindsey, the nonsigning inventor) presented to Allison C. Lindsey, for signature as follows:

On January 21, 2005, at my direction a copy of all application papers was forwarded via email to both inventors at email address [ALindsey@lccc.wy.edu](mailto:ALindsey@lccc.wy.edu), her last known e-mail address, and [jschenk@xyinc.com](mailto:jschenk@xyinc.com). (See Exhibit 1).

On April 19, 2005, I sent a letter to Ms. Lindsey which again included a copy of all application documents (including specification, claims, drawings, and a Declaration having a signature blank for her) using USPS Priority Mail Signature Required. (See Exhibit 2). The USPS records show that this letter was received and signed for by A. Lindsey on April 29, 2005. (See Exhibit 3). I did not receive any communication from Ms. Lindsey.

On October 14, 2005, I conducted a telephone call with Ms. Lindsey in which Ms. Lindsey requested that I re-send her the Declaration and application (including the specification, claims, and drawings). Pursuant to her request, I sent those documents to Ms. Lindsey via email address [ALindsey@lccc.wy.edu](mailto:ALindsey@lccc.wy.edu). (See Exhibit 4.) During our phone

conference, Ms. Lindsey would not agree to sign the declaration since she was no longer an employee of XY, Inc. however; she stated that she would review it.

On October 17, 2005, I spoke with Ms. Lindsey via a telephone call. At that time, Ms. Lindsey stated that she would not sign the declaration at this time.

Accordingly, it is my knowledge that Ms. Lindsey has refused to sign the declaration.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATED this 17 day of October, 2005.

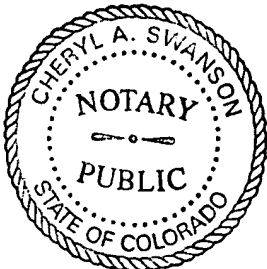
Nicole A. Ressue  
Nicole A. Ressue

UNITED STATES OF AMERICA    )  
STATE OF COLORADO            )ss.  
COUNTY OF LARIMER            )

SUBSCRIBED AND SWORN to before me in the County of Larimer, State of Colorado, United States of America, by Cheryl A. Swanson, this 17<sup>th</sup> day of October, 2005.

WITNESS my hand and official seal pursuant to the authority vested in me as a Notary Public by the State of Colorado.

Cheryl A. Swanson  
Notary Public  
My Commission Expires: 8/24/2007



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TC/A.U:  
Examiner:  
Attorney Docket: XY-Optimum-NP-US  
Customer No. 33549

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**EXHIBIT 1** - E-mail of January 21, 2005 to Allison Lindsey

From: Cheryl Swanson  
Sent: Friday, January 21, 2005 3:05 PM  
To: 'ALindsey@lccc.wy.edu'; John Schenk (E-mail)  
Subject: National Phase Filing for the application entitled Sperm Cell  
Process System; Our Ref: "Optimum Temperature"

Importance: High

Dear Mr. Schenk and Ms. Lindsey:

The National Phase of PCT Application Number PCT/US03/22906 is due Monday, January 24, 2005. I have attached the PCT application as filed, an Assignment for each of you and one Declaration. Please note that we are not amending the PCT application for the National Phase filing.

Please sign the attached documents in the presence of a notary, if possible, fax them back to me at (970) 224-3175, and mail the originals.

Thank you for your assistance in the matter.

Cheryl A. Swanson  
IP Administrator  
SANTANGELO LAW OFFICES, P.C.  
125 South Howes, 3rd Floor  
Fort Collins, CO 80521  
United States of America

970-224-3100 Phone  
970-224-3175 Fax  
CSwanson@IdeaAssetGroup.com

\*Warning\*

This email, and any attachments, is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 970-224-3100.

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Attorney Docket: XY-Optimum-NP-US  
Customer No. 33549

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**EXHIBIT 2** – Letter to Allison Lindsey dated April 19, 2005

Luke Santangelo  
*Patent & Trademark Attorney*  
Cheryl Anderson-Siler  
*Trademark Attorney*  
Al Wiedmann Jr.  
*Patent Attorney*  
Kay L. Collins  
*Trademark Attorney*  
Nicole A. Ressue  
*Patent Attorney*  
Misha Gregory Macaw  
*Patent Attorney*

**SANTANGELO** LAW OFFICES, P.C.

125 South Howes Street  
Third Floor  
Fort Collins, CO 80521  
United States of America

Telephone: (970) 224-3100  
Facsimile: (970) 224-3175  
ideas@IdeaAssetGroup.com

April 19, 2005

Letter and Attachments Sent Via:  
USPS Priority Mail Signature Required  
Last known E-mail Address: alindsey@lccc.wy.edu

Allison Lindsey  
236 North Overland Trail  
Ft. Collins, CO 80521

Re: Our Ref: XY-Optimum-USNP  
Title: Sperm Cell Process System  
US National Phase Filing

Dear Ms. Lindsey:

As you may recall, on January 24, 2005, we entered the National Phase from PCT Application Number PCT/US03/22906, which claims priority to US Provisional Application number 60/400,486. On January 21, 2005, we forwarded to you via e-mail the PCT application as filed in the US National Phase application and requested your signature for the Assignment and Declaration documents. As was stated in the e-mail, we did not amend the PCT application for the National Phase filing.

I have enclosed a copy of the PCT application (as published in the PCT and as filed in the National Phase) and the National Phase Assignment and Declaration. Please sign them, in the presence of a Notary, at your earliest convenience and return them to us at once. I have also enclosed the Assignment for the Provisional Application Number 60/400,486 as recorded in the US Patent and Trademark Office ("USPTO") for your convenience. It is important for us to receive these documents with your signature so that we can file them with the USPTO.

Please do contact me if you have any questions.

Sincerely,  
SANTANGELO LAW OFFICES, P.C.

  
Nicole A. Ressue  
Patent Attorney

Enclosure: International Publication of PCT/US03/22906  
Assignment as recorded in US Provisional Application Number 60/400,486  
National Phase Assignment and Declaration

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TC/A.U:  
Examiner:  
Attorney Docket: XY-Optimum-NP-US  
Customer No. 33549

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**EXHIBIT 3** – Track and Confirm results from  
USPS showing receipt of April 19, 2005 letter

## Track & Confirm

### Search Results

Label/Receipt Number: 2301 0370 0000 1365 0069  
Status: **Delivered**

Your item was delivered at 4:07 pm on April 29, 2005 in FORT COLLINS,  
CO 80521. The item was signed for by A LINDSEY.

Additional information for this item is stored in files offline.

### Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

[Restore Offline Details >](#)



[Return to USPS.com Home >](#)

### Notification Options

#### Proof of Delivery

Verify who signed for your item by email, fax, or mail.

[Go >](#)



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Date: 09/15/2005

Nicole Ressue:

The following is in response to your 09/15/2005 request for delivery information on your Signature Confirmation item number 2301 0370 0000 1365 0069. The delivery record shows that this item was delivered on 04/29/2005 at 04:07 PM in FORT COLLINS, CO 80521 to A LINDSEY. The scanned image of the recipient information is provided below.

**Delivery Section**

Signature of Recipient:

*Allison Lindsey*

Allison Lindsey.

Address of Recipient:

236 N. Overland Tr  
Ft. Collins,

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Express Mail No.: EV 603557284 US

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IN THE UNITED STATES PATENT  
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Filed:	January 24, 2005
Applicants:	John L. Schenk and Allison C. Lindsey
Title:	Sperm Cell Process System
TC/A.U:	
Examiner:	
Attorney Docket:	XY-Optimum-NP-US
Customer No.	33549

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**EXHIBIT 4** – E-mail of October 14, 2005 to Allison Lindsey

## Nicole Ressue

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**From:** Nicole Ressue  
**Sent:** Friday, October 14, 2005 5:05 PM  
**To:** 'alindsey@lccc.wy.edu'  
**Subject:** Signatures Needed for XY Patent Application

**Importance:** High

Dear Allison:

Thank you for taking the time today to discuss the declaration signature needed for the U.S. National Phase patent application entitled, "Sperm Cell Process System" filed January 25, 2005. This application claims priority to PCT Application Number PCT/US03/22906 and the US Provisional Application number 60/400,486. I have enclosed the Assignment for the Provisional Application Number 60/400,486 as recorded in the US Patent and Trademark Office ("USPTO") for your convenience.

I have also enclosed a copy of the PCT application (as published in the PCT and which was filed in the U.S. National Phase) along with a Declaration for your signature. (This was requested from us via an email dated January 21, 2005 and by Priority Mail dated April 19, 2005.) Please sign the declaration, in the presence of a Notary and return it to me by Monday, October 17, 2005 via facsimile at (970) 224-3175 and the original via mail. It is important for us to receive this document with your signature so that we can file it with the USPTO.

Should you have any questions, please give me a call. Do be aware that we will assume that you are refusing to sign the declaration if we do not hear from you by 4:00 pm on Monday, October 17, 2005.

Sincerely,  
Nicole A. Ressue  
Patent Attorney



Declaration.doc



W004009237A2.pdf



Lindsey-Assignment.pdf

### \*Warning\*

This email, and any attachments, is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 970-224-3100.

Santangelo Law Offices, P.C.

125 South Howes St., 3rd Floor

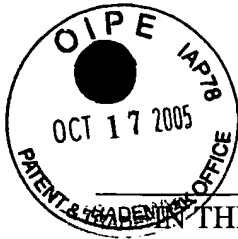
Fort Collins, CO 80521

Telephone: 970-224-3100

Facsimile: 970-224-3175

**Tracking:** Recipient  
'alindsey@lccc.wy.edu'

**Delivery**



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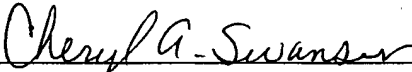
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**CERTIFICATE OF EXPRESS MAILING**

I, Cheryl A. Swanson, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.
2. I have this day deposited the attached Affidavit of Nicole A. Ressue Under 37 C.F.R. §1.47 along with its Exhibits 1-4 with the United States Postal Service as "Express Mail" for mailing to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated this 17<sup>th</sup> day of October, 2005.

  
Cheryl A. Swanson